



Town of Groton, Connecticut

Meeting Minutes

Town Council Committee of the Whole

45 Fort Hill Road
Groton, CT 06340-4394
Town Clerk 860-441-6640
Town Manager
860-441-6630

Mayor Rita M. Schmidt, Councilors Dean Antipas, Genevieve Cerf, Joe de la Cruz, Bruce S. Flax, Bob Frink, Rich Moravsik, Deborah L. Peruzzotti and Harry A. Watson

Tuesday, September 23, 2014

6:00 PM

Town Hall Annex - Community Room 1

REGULAR MEETING

1. CALL TO ORDER

Mayor Schmidt called the meeting to order at 6:04 p.m.

2. ROLL CALL

Members Present: Mayor Schmidt, Councilor Cerf, Councilor de la Cruz, Councilor Frink, Councilor Moravsik, Councilor Peruzzotti and Councilor Watson
Members Absent: Councilor Flax

Also present were Town Manager Mark Oefinger and Executive Assistant Nicki Bresnayan.

3. Calendar and Communications

None.

4. Approval of Minutes

2014-0259 Approval of Minutes (Committee of the Whole)

RESOLUTION ACCEPTING COMMITTEE OF THE WHOLE MINUTES

RESOLVED, that the minutes of the Town Council Committee of the Whole meeting of September 2, 2014 are hereby accepted and approved.

A motion was made by Councilor Watson, seconded by Councilor Moravsik, to adopt.

The motion carried unanimously

5. UNFINISHED BUSINESS

None.

6. NEW BUSINESS

2014-0233 Councilor Cerf FOI Complaint

Discussed and Recommended no action taken

- FOI Presentation by Tom Hennick

Tom Hennick began the conversation with the Council by noting that Freedom of Information (FOI) is about access to public meetings and public records. The Town is not obligated to create records that do not exist. Meetings must be noticed properly, i.e. an agenda posted at least 24 hours before the meeting stating where, when, and what. To discuss items at a regular meeting (not a special meeting) under unfinished business, old business, or other business, they must be added to the agenda. Special meeting notices must be posted on the web site. There is no FOI violation if a regular meeting notice is not posted.

Councilor Flax arrived at 6:10 p.m.

Roll Call: Members Present: Mayor Schmidt, Councilor Cerf, Councilor de la Cruz, Councilor Flax, Councilor Frink, Councilor Moravsik, Councilor Peruzzotti and Councilor Watson

Mr. Hennick recommended avoiding emergency (unnoticed) meetings, as the bar for qualifying as

an emergency is extremely high. Minutes of an emergency meeting must be posted within 72 hours. For all other meetings, minutes must be available within 7 days. Minutes are a record of the votes, but the organization is also creating an historical record. Subcommittee meetings must also comply with FOI requirements including generating minutes, but they can be abbreviated. A meeting includes by electronic means; there should be no deliberative discussions by phone, e-mail, texts, etc.

There are certain things that can be discussed in executive session. Councilor Cerf explained that incumbent Town Councilors recently wanted to have an executive session to discuss the Town Manager's evaluation for the previous year. The Council voted unanimously to go into executive session. Mr. Hennick noted that the people who are members of the same group are allowed to be in the room; it is not a problem if a decision was made by the body not to include some people. In the case cited, the intent was proper, but technically speaking anyone who is a member of the body can go into executive session. For example, a board member who has sued the board has the right to go into executive session on the legal issue unless he or she voluntarily recuses him or herself. There is no issue if everyone votes to exclude members from the executive session. The appeal window for an FOI violation is 30 days from the action or from the time the action is brought to light. In the absence of an appeal, any actions taken by the body stand.

In response to a scenario posed by Councilor Watson, Mr. Hennick noted that meetings can occur without a quorum being present if there is deliberative discussion.

With regard to communications received by Councilors, if the communication is through a written document, it is a public record. There is no requirement that the communications be attached to the minutes, but a copy should be available in a central location for anyone who asks. Telephone calls and notes do not count. Once people make contact with a public official, it becomes a public record. Redactions must be in accordance with exemptions.

In response to Councilor Peruzzotti, Mr. Hennick explained that the definition of public agency includes a fire district board that receives public funds. In response the Superintendent Mike Graner and Board of Education Chair Rita Volkmann, Mr. Hennick noted that the rules for electronic voting and a quorum are determined by the rules of the body.

Any committees created by the Town Council are subject to FOI rules. Receipt of public comment at a meeting is not required by FOI; it is up to the body. If comments are allowed, there should be a section for them on the agenda.

With respect to a caucus, it must be composed of members of the same board and same party. No outside persons can attend.

Mr. Hennick explained that if an FOI complaint is upheld, there are usually no ramifications for a first time offense, but continual violations could result in civil penalties against the individuals (not the town) and any decisions could be declared null and void.

Returning to the Town Manager's evaluation issue, Mr. Hennick noted that the Council could have created a committee made up of certain members, which would be a proper exclusion of others from the executive session. When the Council, returned from executive session, there should have been a motion as opposed to just reporting out the results of the executive session.

Mayor Schmidt thanked Mr. Hennick for his presentation.

2014-0261

Preliminary Results of Operations - FYE 2014

Discussed and Recommended no action taken

Sal Pandolfo, Director of Finance, reported on the results of operations for FYE 2014, which are

subject to change after completion of the audit. The only change from the estimates provided to the Council in May are an overall increase of \$241,051 in Fund Balance, resulting in a total of \$1,987,493 above the required 7.75% Fund Balance.

2014-0005 Labor Negotiations (2014 Standing Referral)

A motion was made by Councilor Cerf, seconded by Councilor Moravsik, to enter executive session at 7:01 p.m. to discuss #2014-0005 Labor Negotiations and to invite Town Attorney Eileen Duggan, Assistant Town Manager Doug Ackerman, and Town Manager Mark Oefinger to attend.

The motion carried unanimously

Discussed

The executive session ended at 8:03 p.m. and the Council took a five minute recess.

2014-0263 Mystic Indoor Sports - Request for Financial Incentive

Discussed

Town Manager Oefinger explained the request by Matt McCormack, a potential buyer of Mystic Indoor Sports on Welles Road, to obtain a tax incentive from the Town. The assistance he is looking for will be applied to the current taxes as well as improvements to the property, which has never been done before. Usually the abatement applies to improvements only. The Town Manager solicited Councilors' initial thoughts about applying the abatement to taxes due. Councilor Frink requested that the breakeven point be identified. Councilor Cerf expressed concern with applying abatement to existing taxes because it would set a dangerous precedent for anyone buying distressed property. Councilors Watson, de la Cruz, and Flax expressed a willingness to have a dialog with Mr. McCormack. The Town Manager explained the history and condition of the current business.

2014-0262 Groton Education Foundation Grants - Senior Center

A motion was made by Councilor Peruzzotti, seconded by Councilor Flax, that this matter be Recommended for a Resolution.

The motion carried unanimously

2014-0256 Procurement of USS Groton Sail and Planes

Discussed

Mayor Schmidt explained her intent to form an initial committee to discuss the procurement of the USS Groton Sail and Planes, composed of representatives from the Town, City, and Navy, with a more formal committee to be established later on.

Town Manager Oefinger noted that the City Council has some interest in pursuing this project jointly. He distributed information about obtaining the sail. The Town Manager emphasized that the Council must make a decision in very short order to save the pieces of the boat and make a firm commitment to procurement. He urged the Council to think long and hard about who should be on the committee. Discussion followed on the need to find a location and the total project cost, which could potentially be over \$1,000,000.

A motion was made by Councilor Frink, seconded by Councilor Cerf, to form an exploratory committee with Councilors Watson and Moravsik representing the Town.

The motion carried unanimously

2014-0257 FYE 2016 Budget Discussion

Discussed

Councilor Moravsik asked for this referral to begin discussion on what kind of guidelines to give the Town Manager for next year's budget. Councilors weighed in on various subjects including the Board of Education and MBR, recommendations contained in the police study, focusing on areas other than Town operations, revenue generation, and elimination of positions.

2014-0264 Legislative Initiatives - Review of Request for Qualifications (RFQ)

Discussed

Town Manager Oefinger noted that a draft RFQ has been prepared, but information about who will be reviewing the RFQs should be included. Councilor Frink suggested a large committee comprised of Town staff, and representatives of the Town Council, RTM, land use commissions (Planning, Zoning), the City, and City commissions.

Councilor Flax questioned the return on investment for this effort. Councilor Cerf suggested waiting until the new Director of Planning and Development Services arrives and is able to provide some input into the RFQ. Councilor Frink reviewed the purpose of the effort and urged the Council to move forward. The Town Manager described the RFQ process versus an RFP process. Councilor Peruzzotti suggested that fewer reviewers would be better (representatives from the Town Council, RTM, Planning and Development, Planning Commission, Zoning Commission, Economic Development Commission, and staff).

A motion was made by Councilor Moravsik, seconded by Councilor de la Cruz, to appoint Councilor Frink to the RFQ review committee.

Discussion followed on review of the RFQ by the Director of Planning and Development Services and the composition of the RFQ review committee versus a future steering/liaison committee. The motion and second were withdrawn.

2014-0167**Airport Development Zones****Discussed**

Town Manager Oefinger distributed and reviewed maps and a narrative update on the Airport Development Zone effort. The Town will be approaching the state with a proposal to expand the zone beyond the 2 mile radius from the airport since a good portion of the area is water. The consensus of the Council was to propose a 2.5 mile radius.

2014-0198**Noank School Public Gardens - Update****Discussed**

Town Manager Oefinger shared two e-mails that he has received from Clint Wright and noted that he is trying to schedule a meeting with Robert Palm. Recent discussions have focused on setting up a committee to develop a periodic work program for the site to be approved by the Town Council. The deadline for the group to present to the Town Council is October 8th. Discussion followed on establishing a governance committee and what the committee's tasks would be.

A motion was made by Councilor Cerf to set up a governance committee. There was no second.

The Town Manager explained that the governance issue must be addressed in the Memorandum of Understanding. Councilor Frink noted that the property is zoned R-20 and there are no special conditions required except a public hearing for a subdivision. Noank zoning must approve the plan for the garden and a special permit is required to bring in over 10 cubic yards of materials. Councilor de la Cruz expressed concern with aspects of the proposal such as using seaweed as compost. It was suggested that no decisions be made until the group makes its presentation to the Council.

2012-0050**Potential Disposition of William Seely School Property****Discussed**

Town Manager Oefinger reported that he met with a developer interested in purchasing the William Seely School property and the developer has submitted a draft letter of offer. To discuss the proposal in detail, the Committee should go into executive session.

A motion was made by Councilor Moravsik, seconded by Councilor de la Cruz, to enter executive session at 9:58 p.m. to discuss #2012-0050 Potential Disposition of William Seely School and to invite the Town Manager to attend.

The motion carried unanimously

Discussed

The executive session ended at 10:20 p.m.

2013-0156 Town Manager Annual Evaluation (2013)

Not Discussed

2014-0155 Town Manager Annual Evaluation (2014)

Not Discussed

7. Consideration of Committee Referral Items as per Town Council Referral List

None.

8. OTHER BUSINESS

None.

9. ADJOURNMENT

The meeting adjourned at 10:25 p.m.